

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) CRIMINAL CASE NO. CCB-16-597
MONTANA BARRONETTE, et al.,)
Defendants.)
_____)

Wednesday, October 3, 2018
Courtroom 1A
Baltimore, Maryland

BEFORE: THE HONORABLE CATHERINE C. BLAKE, JUDGE
(AND A JURY)

VOLUME VII

EXCERPT - TESTIMONY OF JOSEPH DEMBOWSKI

For the Plaintiff:

Daniel Gardner, Esquire
Christopher Romano, Esquire
Assistant United States Attorneys

-and-

John Hanley, Esquire
Trial Attorney, U.S. Department of Justice
Organized Crime & Gang Section

For the Defendant Montana Barronette:

Alan Bussard, Esquire
Michael Lawlor, Esquire

Reported by:

Douglas J. Zweizig, RDR, CRR
Federal Official Court Reporter
101 W. Lombard Street, 4th Floor
Baltimore, Maryland 21201

1 For the Defendant Terrell Sivells:

2 Joseph Balter, Esquire

3 For the Defendant John Harrison:

4 Jenifer Wicks, Esquire

5 Gary Proctor, Esquire

6 For the Defendant Timothy Floyd:

7 Harry Trainor, Esquire

8 For the Defendant Dennis Pulley:

9 Charles Burnham, Esquire

10 For the Defendant Linton Broughton:

11 Alfred Guillaume, Esquire

12 For the Defendant Brandon Wilson:

13 Christopher Nieto, Esquire

14 For the Defendant Taurus Tillman:

15 Richard Bardos, Esquire

16 Also Present:

17 TFO/Detective Mark Neptune, Baltimore Police Department

18 Krystal Panas, Defense Paralegal

P R O C E E D I N G S

(2:23 p.m.)

(Excerpted as follows:

THE COURT: Does the Government have another witness?

MR. GARDNER: Yes, Your Honor. The Government calls Joseph Dembowski.

THE CLERK: Please raise your right hand.

JOSEPH DEMBOWSKI, GOVERNMENT'S WITNESS, SWORN.

THE CLERK: Please be seated. Please speak directly into the microphone. You may pull it to you. State and spell your full name for the record, please.

THE WITNESS: My name's Joseph Dembowski, J-O-S-E-P-H, D-E-M-B-O-W-S-K-I.

THE CLERK: Thank you.

DIRECT EXAMINATION ON VOIR DIRE

BY MR. GARDNER:

Q. Good afternoon, sir.

A. Good afternoon, sir.

Q. What is your current occupation?

A. I'm a forensic chemist with the Drug Enforcement Administration.

Q. How long have you been with the Drug Enforcement Administration?

A. It will be 21 years this December.

Q. Have you been a forensic chemist that entire time?

A. Yes, that's correct.

Q. Have you worked anywhere else as a forensic chemist or in forensic chemistry prior to DEA?

A. No. I was an analytical chemist for an environmental company for ten years prior to going to the DEA.

Q. Okay. Can you describe a little bit about what your day-to-day duties are like as a forensic chemist with the DEA.

A. We analyze various exhibits that are brought to us from different law enforcement agencies to determine their contents as far as the quality, the purity, and we submit reports based on our findings for each exhibit.

Q. Can you describe your educational background.

A. I have a Bachelor's of Science degree in chemistry from West Virginia University.

Q. When you first joined the DEA, did you receive any type of either on-the-job training or training before you started working as a forensic chemist?

A. Yes. We go through about an eight-week training period where we're shown various methods, instrumentation, procedures to analyze for controlled and non-controlled substances.

We spend about a week per drug. Like a week analyzing cocaine, heroin, you know, so forth and so on.

Q. Since that time, have you continued to receive training or continuing education as a forensic chemist?

A. Yes. We go on training courses to keep up with changes in

1 instrumentation, software, and also in-house training on
2 general topics in the forensic community.

3 Q. Do you perform proficiency testing?

4 A. Yes. It's about quarterly, we perform proficiency
5 samples.

6 Q. And what does that mean?

7 A. It's an unknown sample where we don't know the drug purity
8 and we have to test it and pass those, you know, results to,
9 you know, be fully proficient in that.

10 Q. During the course of your professional experience, have
11 you had occasion to chemically analyze substances to determine
12 whether those -- the substance is or contains a controlled
13 substance?

14 A. Yes, I have.

15 Q. About how many times?

16 A. About 85 times.

17 Q. You've conducted a test 85 times?

18 A. No, I'm sorry. Appeared in court. But for the test of
19 it, the exhibits, over 6100. Yeah, over 6100.

20 Q. Okay. Over 6100.

21 All right. Have you ever testified as an expert before?

22 A. Yes, I have.

23 Q. Okay. How many times?

24 A. Approximately 85 times.

25 Q. And was that in federal, state court?

A. Federal and state district courts in Maryland, Virginia, West Virginia, Louisiana, Washington, D.C., and also Superior Court in Washington, D.C.

Q. Okay. Have you ever been offered as an expert but not accepted as an expert by the Court?

A. No.

MR. GARDNER: Your Honor, at this time, unless counsel has any voir dire or objections, the Government would ask that the witness be declared an expert in the field of drug chemistry and the analysis of controlled substances.

THE COURT: Any questions or objections?

(No response.)

THE COURT: All right. No.

All right. The witness will be found qualified on the basis of his education, training, and experience to give us opinion testimony in the field of forensic chemistry, particularly the analysis of suspected controlled, dangerous substances.

MR. GARDNER: Your Honor, I'm going to show the witness what's been marked as Government's Exhibit CB6. This is from the August 11th, 2016, controlled buy that we heard about.

DIRECT EXAMINATION

BY MR. GARDNER:

Q. Sir, can you take a look at that and tell me if you

1 recognize that.

2 **A.** Yes, I recognize it.

3 **Q.** And what is it?

4 **A.** It is a heat-sealed evidence envelope that I opened on
5 December 12th and resealed on December 13th of 2016.

6 **Q.** How can you tell?

7 **A.** The outer packaging and the inner packaging has my
8 initials or handwriting and signature on the sticker, on the
9 bottom of the heat seal.

10 **Q.** At some point after you received that item, did you
11 conduct testing on that item?

12 **A.** Yes, I did.

13 **Q.** And what sort of tests did you conduct on that item?

14 **A.** I did a Marquis color test, a gas chromatography-mass
15 spectroscopy test, and also a gas chromatography quantitative
16 test.

17 **Q.** What's the point of the color test?

18 **A.** It's a presumptive test. In this case heroin turns a
19 purple color. And for the 25 individual tablets or capsules I
20 analyzed, they all turned purple, which gave me an idea that
21 this is heroin.

22 **Q.** At some point you mentioned that you conducted several
23 tests. Are one of those tests a confirmatory test?

24 **A.** Yes; the gas chromatography and mass spectroscopy.

25 **Q.** Okay. What was the result of your testing?

~~DEMBOWSKI~~ ~~DIRECT~~

1 A. This substance contains heroin.

2 Q. Now, is it -- can you describe the item there? Is it just
3 one bag of the substance or is it broken down?

4 A. When I first opened it, it's 100 full capsules of a
5 powdery -- white powdery -- off-white powdery substance.

6 Q. Okay. And did you test each one of those individual
7 units?

8 A. No. I sampled 25 of the 100.

9 Q. Okay. Why only 25?

10 A. That's the sampling plan we follow. It's sometimes
11 impractical to analyze every capsule or bag that we get based
12 on a number we receive, so we follow the sampling plan for in
13 this case a hundred tablets. I was required to do 25 tablets
14 or capsules, excuse me.

15 Q. Okay. And of those 25 you tested, they all contained
16 heroin?

17 A. Yes, they all contained heroin.

18 Q. Okay. Did the substance contain anything except heroin?

19 A. It also contained caffeine in each one of them.

20 Q. Did you attempt to weigh the substance or determine what
21 the weight is of that item, that exhibit?

22 A. Yes, I did.

23 Q. And what did you do? How did you make that determination?

24 A. I weighed all -- each 100 together to get a gross weight
25 of the full capsules. And then I weighed nine empty capsules

1 to get an average of those nine, which I extrapolated over to
2 times a hundred to get a weight of what 100 capsules empty
3 would weigh, and I had subtracted that from the gross weight of
4 everything full.

5 **Q.** And what did you determine the overall weight was of the
6 substances contained in the capsules?

7 **A.** I believe it was 24.6, if I remember from my report.

8 **Q.** Well, I probably should have shown you your report.

9 **MR. GARDNER:** Your Honor, I'd like to show the witness
10 Government's Exhibit R17.

11 **THE COURT:** Sure.

12 **BY MR. GARDNER:**

13 **Q.** Sir, can you take a look at that and tell me if you
14 recognize that.

15 **A.** Yes, I recognize it. It has my name at the bottom of the
16 page. And the case number and LIMS number match the
17 heat-sealed evidence envelope.

18 **Q.** The case number on your report matches the case number on
19 the exhibit?

20 **A.** Yes; and also the LIMS number, which is our laboratory
21 number, and the exhibit number, 1B80.

22 **Q.** Now that you have your report, can you confirm that it was
23 approximately 24.6 grams?

24 **A.** Yes, it was 24.6 grams.

25 **Q.** Of heroin?

~~DEMBOWSKI - DIRECT~~

1 **A.** Of heroin, yes.

2 **Q.** Okay. I'll retrieve that.

3 **MR. GARDNER:** I'm just putting the report here. This
4 is R17 on the document camera.

5 **THE COURT:** All right.

6 **MR. GARDNER:** And I'm focusing down.

7 **BY MR. GARDNER:**

8 **Q.** So you said the exhibit contained heroin and caffeine?

9 **A.** Yes. Correct.

10 **Q.** During the -- your experience as a forensic chemist, have
11 you seen caffeine mixed with other drugs?

12 **A.** Yes, I've seen it mixed with other drugs.

13 **Q.** Okay. Have you ever seen it mixed with heroin before?

14 **A.** I have. I can't remember the number of times, but I have
15 seen it with heroin and cocaine, yeah.

16 **Q.** And then you said that the net weight, so the actual
17 weight of the substance is about 24.6 grams?

18 **A.** Yes, the weight of the powder itself. No weight of the
19 capsule.

20 **MR. GARDNER:** Okay. Can I have one moment,
21 Your Honor?

22 That's all the questions I have, Your Honor.

23 **THE COURT:** All right. Thank you.

24 Mr. Bardos.

25 **MR. BARDOS:** Mr. Gardner, can you leave that exhibit

up, please.

MR. GARDNER: Yes, sir.

CROSS-EXAMINATION

BY MR. BARDOS:

Q. Good afternoon. Just a couple of math questions.

A. Good afternoon, sir.

Q. All right. So the gross weight was 68.5 --

A. Yes.

Q. -- right?

That's the capsules and whatever was in the capsules?

A. Yes; and also including this heat-sealed evidence envelope (indicating).

Q. Okay.

A. The gross weight of the whole thing.

Q. So the entire thing weighed 68 point -- 65.8 grams?

A. Yes, that's correct.

Q. And you said you determined how much an empty capsule would weigh?

A. Yes.

Q. How much does an empty capsule weigh?

A. I don't have my handwritten notes. It may be with the report that was submitted.

Q. It's not in here?

A. No, it's not on the report form itself.

Q. Okay. So you have a net weight of 24.6 (indicating)?

A. Yes.

Q. And you would subtract that from the gross weight, and that would give you the weight of the packaging and the capsules?

A. That's correct.

Q. But you don't know how much capsule weighs?

A. I have -- I've weighed it out, but I don't have the exact number with me right now.

Q. Is it fair to say, in your experience, that in capsules like that, there's approximately .1 gram of material?

A. The capsule that I weighed empty was just the plastic part, yes.

Q. Yes.

But you've examined a lot of heroin capsules in your day; right?

A. I've examined them, yes. I can't give you an exact number.

Q. Is it fair to say that in a capsule, a heroin capsule like that, there's usually about .1 gram of the white powder?

A. It could vary. Whatever was put in there. They could be half full or completely full.

Q. I'm sorry, they could be?

A. They could be half full or completely full.

Q. Okay. And you don't remember one way or the other what the range is?

1 **A.** Like I said, I have the weights written down in my -- the
2 full laboratory report.

3 **MR. BARDOS:** Okay. All right. Thank you.

4 **THE COURT:** Anyone else?

5 (No response.)

6 **THE COURT:** Any redirect?

7 **MR. GARDNER:** No, Your Honor.

8 **THE COURT:** Thank you very much, sir.

9 **THE WITNESS:** Thank you, Your Honor.

10 **THE COURT:** You're excused.

11 (Witness excused.)

12 (End of excerpt.)

13 (2:34 p.m.)

14 INDEX - GOVERNMENT'S EVIDENCE

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16 JOSEPH DEMBOWSKI	3	--	--	--
(Voir Dire)				
17 JOSEPH DEMBOWSKI	6	11	--	--

18 I, Douglas J. Zweizig, RDR, CRR, do hereby certify that
19 the foregoing is a correct transcript from the stenographic
20 record of proceedings in the above-entitled matter.

21 _____
22 /s/

23 Douglas J. Zweizig, RDR, CRR
24 Registered Diplomat Reporter
25 Certified Realtime Reporter
Federal Official Court Reporter
DATE: December 13, 2018

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